

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

EVDOKIA NIKOLOVA
Plaintiff,

V.

UNIVERSITY OF TEXAS AT AUSTIN,
Defendant.

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CASE NO. 1:19-cv-00877-RP

**PLAINTIFF'S MOTION FOR LEAVE
TO FILE FIRST AMENDED COMPLAINT**

TO THE HONORABLE JUDGE ROBERT PITMAN:

Evdokia Nikolova, Ph.D., (“Dr. Nikolova” or “Plaintiff”) files this Motion for Leave To File First Amended Complaint against The University of Texas at Austin, (“UT Austin” or “Defendant”) and respectfully shows the Court as follows:

1. Plaintiff’s Original Complaint alleges that Defendant UT Austin discriminated against her on the basis of sex, including pregnancy, when it denied her application for tenure.
2. Plaintiff is a tenure-track professor in the Electrical and Computer Engineering (“ECE”) Department at UT Austin. The ECE Department consists of 92.5 percent (49) male tenured faculty and only 7.5 percent (4) women tenured faculty.
3. UT Austin denied Dr. Nikolova’s application for tenure in spite of strong votes and recommendations in favor of her tenure by the ECE department chair, the tenured faculty within the ECE department, the College of Engineering’s Tenure and Promotion Committee, and all external reviewers, who are prestigious scholars and experts from other top tier universities.
4. The Dean of the College of Engineering, who first recommended against Plaintiff’s application for tenure, noted in her recommendation against tenure that Dr. Nikolova had become pregnant during her time at UT and had requested a modified instructional duties as a result of her

pregnancy. The Dean further stated that “[i]f this were an up-or-out case, I would likely agree with the recommendation of the Promotion and Tenure committee [for tenure]. However, Dr. Nikolova is being considered for promotion at UT Austin two years early.” The Dean and UT Austin considered Dr. Nikolova’s application “early” in part because she had requested a probationary extension due to her pregnancy and birth of a child.

5. Dr. Nikolova continues to work at UT Austin. Since raising concerns of sex and pregnancy discrimination and filing a charge of discrimination and this lawsuit, she has been subjected to heightened scrutiny and retaliation. It has also been discovered that Dr. Nikolova is paid less than similarly situated male colleagues.

6. This Amended Complaint adds two closely related claims to Plaintiff’s claims of sex and pregnancy discrimination: retaliation and sex discrimination in compensation (Equal Pay Act). This Amended Complaint also adds claims of discrimination and retaliation under Texas state law, specifically the Texas Commission on Human Rights Act “TCHRA”).

7. Plaintiff has met all legal exhaustion requirements and statutes of limitations for these amended claims. No separate EEOC charge is required to bring a claim for retaliation occurring after the filing of a first EEOC charge. *Gupta v. East Texas State University*, 654 F.2d 411 (5th Cir. 1981). No charge of discrimination is needed for an Equal Pay Act claim and the statute of limitation is two or three years, depending on if the violation is willful. 29 USC § 255. The statute of limitations for claims under the TCHRA is two years from the date a charge of discrimination was filed, unless a state right to sue letter has been issued. Tex. Labor Code § 21.256; *see also Vielma v. Eureka Co.*, 218 F.3d 458 (5th Cir. 2000). No state right to sue letter has been issued and Plaintiff’s charge of discrimination was filed on or about May 10, 2019. This amended complaint adding claims under the TCHRA is filed within two years of the date

Plaintiff's charge was filed.

8. Pursuant to this Court's Scheduling Order (Doc. 15), the deadline for filing amended pleadings is July 1, 2020. This motion for leave is timely filed within that deadline.

9. Defendant UT Austin does not oppose leave for filing Plaintiff's First Amended Complaint.

Plaintiff respectfully requests leave to file the Plaintiff's First Amended Complaint, attached to this motion as Exhibit A.

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2020, this document was served pursuant to Federal Rules of Civil Procedure on counsel for Defendants at the following address:

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By: /s/ Robert W. Schmidt

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with counsel for Defendant UT Austin who stated that Defendant does not oppose leave for filing Plaintiff's First Amended Complaint.

By: /s/ Robert W. Schmidt